IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL
Writ Petition No. 1473 of 2002 (S/B)

Puskar Singh
S/o Shri Khushal Singh
R/o Village and Post Devaldhar
District Chomoli …Petitioner

Versus

1. State of Uttaranchal through
Secretary
Youth Welfare Department, Uttaranchal
Dehradun
2. Director General
Youth Welfare Department, Uttaranchal
Dehradun
3. District Magistrate
Chamoli
4. District Youth Welfare Officer
Chamoli – Gopeshwar …Respondents

Sri R.P. Nautiyal, learned counsel for the petitioner
Sri Paresh Tripathi, learned standing counsel for the State

Hon'ble B.C. Kandpal, J.

By means of this writ petition a relief has been sought in the nature of mandamus directing the respondents to regularize the petitioner on the post of Driver and to pay regular salary to him on the said post.

Brief facts giving rise to this petition are that the petitioner who is having a valid driving licence for plying light motor vehicle, medium goods vehicle and heavy goods vehicle is fully eligible and qualified to be appointed as Driver in any Department of the State of Uttaranchal.

The petitioner has further stated in the writ petition that on 29.06.1996, he was appointed on the post of Driver on daily wages in Yough Welfare Department, Chamoli-Gopeshwar and was engaged with Jeep No. UP05 0075 of the respondent No. 4. Since the date of the appointment, the petitioner has been working as a Driver and there is no complaint against him.

On 01.05.1998, the respondent No. 3 passed an order directing the respondent No. 4 to surrender his Jeep No. UP05/0075 along with Driver

and thereafter the petitioner was engaged with another Jeep No. UGY 1002 belonging to the respondent No. 4. On 09.02.2000, the respondent No. 4 passed an order directing the petitioner to ply the vehicle of District Finance and Number Officer, Chamoli-Gopeshwar. On 24.02.2000, District Finance and Number Officer, Chamoli-Gopeshwar passed an order directing the petitioner to engage with Chief Medical Officer, Chamili along with Jeep No. UGY 1002.

The petitioner has further averted in the writ petition that he had been continuously working as a driver in the Department on daily wages but his salary was withheld by the respondents for the month of September 1998 and since August 1999 without disclosing any reason. The petitioner made several representations but all in vain, hence this writ petition.

The respondents have filed the counter affidavit denying the contents made in the writ petition. Specific plea has been taken in the counter affidavit that no appointment letter had ever been issued to the petitioner for the post of Driver and there was no post of Driver vacant in the Department. The petitioner in fact was deployed with the Jeep on hire basis as and when regular Drivers of those jeeps were on leave.

Heard learned counsel for the parties and perused the record.

A short question, which arises for consideration, in this case, whether the petitioner has been working since several years on a daily wager or on ad-hoc basis and is eligible for regularization on that count.

For coming to a correct conclusion, it is firstly to be seen whether the petitioner was ever been issued any appointment letter or not.

The petitioner in his petition has stated that he was appointed as a Driver on daily wages on 29.06.1996, but the petitioner has not filed any appointment letter in this regard, therefore, it is not clear whether the petitioner had been working as a daily wager or was given an appointment on ad-hoc basis for the post of Driver.

The case of the respondents is that the petitioner is a trained volunteer of Prantiya Rakshak Dal (P.R.D.) and he was engaged on duty

as and when required amongst the order trained volunteers. The respondents have categorically taken the plea that the contention of the petitioner is that he was appointed on the post of Driver on daily wages and is totally false as there is no post of driver vacant in the Department. It has also been specifically pleaded that the petitioner was paid honorarium as is paid to the other trained volunteers.

All the papers filed by the petitioner clearly reveal that as and when there was a necessity with the respective Departments for the driver on account of the fact that the regular driver of that particular jeep had gone on leave then the services of the petitioner were taken, as the petitioner was a member of P.R.D. and the honorarium was paid to the petitioner as is paid to the other trained volunteers. Therefore, it cannot be held by any stretch of evidence that the petitioner had ever been given as appointment on the post of driver either as daily wager or on ad-hoc basis.

The learned counsel for the petitioner has cited so many decisions of the courts showing therein that the workers working on daily wagers since several years an claim for their regularization and their claims were considered and accepted.

I have gone through the decisions cited before me, but I am of the view that those are not going to apply to the facts and circumstances of the present case. I have already mentioned in the foregoing paragraphs that the petitioner has never been given an appointment letter, which may suggest that he was appointed either as a daily wager or on ad-hoc basis on the post of driver. The petitioner has, therefore, no claim for being regularized in the service.

Accordingly, the writ petition is dismissed.

(B.C. Kandpal, J.)

22.07.2005
ASWAL